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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,625	09/26/2003	Paul Bale	03936-P0001B	8081
24126	7590	10/06/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			TORRES, MELANIE	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	

3683

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/672,625

Applicant(s)

BALE ET AL.

Examiner

Melanie Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/28/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings were received on July 22, 2005. These drawings are not acceptable. See below.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plurality of brake components" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawings are also objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "126" and "128" have both been used to designate a vehicle actuator.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The "conflict resolution scheme" and "control schemes" are critical or essential to the practice of the invention, but not described in a way to enable one skilled in the art to which it pertains to make and use the invention. Further, the manipulation of sensor information for a vehicle can vary significantly depending on the type of information received by the sensor and it is impossible to determine from applicant's claims and specification in what way the information from the claimed sensors is used in the "control schemes".

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Phoenix.

Re claims 1-29, Phoenix disclose a plurality of brake components comprising performance sensors (via S; Ps) a central control unit (10) receiving sensor signals from at least one vehicle performance sensor and generating central control signals for controlling the plurality of brake components based on the received sensor signals, a distributed electronic control unit (16) receiving sensor signals from the at least one vehicle performance sensor and generating local control signals for controlling some of the plurality of brake components based on the received sensor signals and a conflict resolution scheme for resolving conflicts between the central control signals and the local control signals. (Column 4, lines 55-65)

### ***Response to Arguments***

7. Applicant's arguments filed July 22, 2005 have been fully considered but they are not persuasive.

The examiner maintains that the limitations rejected above under 35 USC 112 1<sup>st</sup> paragraph are not enabled. It is impossible for one of ordinary skill in the art to make and use the invention when the claimed limitations are not clearly disclosed. As argued

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by Applicant, there are numerous control schemes and it is not possible to ascertain the manner in which the control scheme is operated in the invention and how it would pertain to a brake system. That which is disclosed in paragraph [0038] is not considered sufficient to provide enablement.

The Examiner maintains the same regarding the "conflict resolution scheme." Although an explanation is given of how these "schemes" may operate, the information in paragraph [0040] does not give a definitive operation of how these operations occur in the instant invention or how they can be applied in the brake system of the invention. Specifically, in the cited paragraph, applicant states wherein the "conflict control rules *may be absolute ... or may depend upon sensed conditions of a vehicle ...* " The number of variables presented in how the operations may occur and to what system they are applied make the number of possibilities so numerous that one of ordinary skill in the art would not reasonably be able to make or use the invention or even ascertain what Applicant's invention is directed to and how it can be applied to the claimed brake system.

All other arguments are moot in view of the new grounds of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Singleton et al. teach brake systems comprising a plurality of brake components, a central control unit and a distributed control unit.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (571)272-7127. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571)272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT  
September 30, 2005

*Melanie Torres*  
Melanie Torres  
Primary Examiner  
9-30-05